EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v. 17 Civ. 4179 (DLC)

ALPINE SECURITIES CORPORATION,

Conference

Defendant.

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New York, N.Y.
September 15, 2017
2:30 p.m.

Before:

HON. DENISE L. COTE,

District Judge

APPEARANCES

ZACHARY T. CARLYLE
TERRY R. MILLER
Attorneys for Plaintiff
U.S. Securities and Exchange Commission

CLYDE SNOW & SESSIONS, P.C.
Attorneys for Defendant
BY: BRENT R. BAKER
AARON D. LEBENTA
JONATHAN D. BLETZACKER

(Case called)

MR. CARLYLE: Zachary Carlyle, and with me today is Terry Miller.

MR. BAKER: Brent Baker, Aaron Lebenta and Jon Bletzacker, for Alpine Securities.

THE COURT: And in addition, your client is with you at the table?

MR. BAKER: Yes. We have Chris Frankel, who is representing the client here today.

THE COURT: Thank you.

This is a case in which the SEC has brought a securities action in New York, and there is a motion that was brought raising a number of issues: lack of personal jurisdiction as a matter of New York's long-arm statute and the due process clause; a venue argument and motion for transfer pursuant to Section 1404, and related issues. At least one of those issues has fallen by the wayside in course of briefing, and I'm prepared to rule on that motion today but want to give the parties an opportunity to add anything that they feel is necessary to their papers.

This is the defendant's motion. Mr. Baker, is there anything else you wanted to say?

MR. BAKER: With respect to the personal jurisdiction issue?

THE COURT: Anything on the motion.

MR. BAKER: Yes.

THE COURT: Anything on the motion.

MR. BAKER: I'd like to add a few things. I'll be brief.

THE COURT: Yes.

MR. BAKER: OK. As your Honor correctly stated, we brought this motion based on three separate issues and we fully, on the case law, understand that we're going forward on our strongest two arguments, the venue and the transfer motion, and we are happy to answer any questions you have but would rely on the briefing for the personal jurisdiction motion.

THE COURT: I think you've abandoned New York long-arm statute as a ground, but you continue to argue due process. Am I right?

MR. BAKER: Correct.

THE COURT: Fine.

MR. BAKER: OK.

Again, we appreciate the chance, understanding this was originally set as a scheduling conference, and we're grateful to be able to at least argue the substance in part, and we can speak to the Rule 26(f) components.

THE COURT: We'll do that separately after I rule on the motion.

MR. BAKER: Great. OK.

Our goal, of course, is to get your Honor to transfer

this matter to the most convenient forum, which is not the Southern District of New York. We want to transfer to the District of Utah where a hundred percent of the witnesses, a hundred percent of the parties, and frankly, even it's more convenient for the plaintiffs, who are out of the Denver office. There are 15 flights a day, and it's an hour flight, but there are no parties, more importantly, at all relative to the operative facts, the underlying facts, in this district.

The complaint alleges not a trading violation, not fraud, but books-and-records violations. 17(a) and Rule 17a-8, under the Exchange Act, are the record keeping and retention requirements, and they spend considerable time in their opposition to laying out the process of clearing a trade through DTC and NSCC, but that is completely separate from the operative facts of this case. Again, it's a books-and-records case. It's based on a violation that could be succinctly said that their Bank Secrecy Act compliance program was inadequate and that caused suspicious activity reports, SARs, to be filed improperly, incorrectly. I'm sure there are others.

There are several categories that they allude to in the complaint, but if I take maybe two minutes here to unpack the filing of a SAR, there are many places in the business of a broker-dealer where a SAR could be filed that have nothing to do with the actual trading in the security. So if a client, new client comes to you and says, I want to open an account,

and you, based on whatever your metrics are, your red flags are, say, Sorry, we're not opening that account, go on your way, you are required to file a suspicious activity report, that report will never make its way to the DTC or NSCC in New York.

Second point in the chain of a securities transaction is when an existing client comes in to deposit a block of stock, sophisticated block of a million shares of XYZ Corp. Well, there's a deposit review team at the broker-dealer that looks at that, and if they detect that there's something suspicious about it, they say, Sorry, we reject this deposit, and again, they hand them back their stock certificate and they file a SAR. Both of those circumstances are pre initiation of a securities trade, but in no circumstance, even though there are two types that I just mentioned, that clearly are pre initiation of a trade, there are no circumstances when DTC will ever intersect with the SAR filings. The time horizons are different.

As of, I think, this week, you have three days to clear and settle a trade through DTC and NSCC. You have 30 days from the day of the detected suspicious activity to file your SAR with FinCEN, wherever that may be in Washington, D.C., so they're two time horizons. They are two totally separate events.

Let me turn to just the convenience side here, because

I know your Honor's time is limited.

THE COURT: Before you turn to that, I understood, though, that while as a theoretical matter, not every SAR filing is related to a transaction in securities that would clear through New York, and you've given two examples of that kind of situation, but in this case, the SAR violations at issue, as alleged, relate to transactions that resulted in clearing through New York. Am I right?

MR. BAKER: It's impossible for me to tell. They have alleged, I think the best you can say is by category, types of SAR filings. I can't tell. They haven't identified specific SARs or specific transactions. That's what discovery, I assume, will be for. But even so, there isn't a situation where DTC will ever intersect with a SAR.

A SAR could be filed, and that transaction may make its way on to DTC or NSCC, but it's unrelated to the filing of a SAR or the maintenance of proper books and records within the four walls of Alpine Securities. That's the case they brought. They investigated this matter for two years. I assume they brought their best factual case, and that is, Alpine Securities, as an entity, your books and records were not accurate at a given point in time. That's all I know from their complaint.

Certainly, under 1404(a), to transfer this to a more convenient district is where most courts turn first, and

there's case law that supports that. We've cited that in our brief, but again, there are no parties in this district. There are no transactions. There are no operative facts. The witnesses, again, to use the language that the commission, or the SEC, used, are scattered across the country, but that's not entirely accurate because most of the witnesses identified are either current or former Alpine employees, and they are all located in the general Salt Lake City, Utah, area.

There are a couple who are outside of Salt Lake City, Utah, but none of them are in this district.

THE COURT: They're in Iowa and Maine.

MR. BAKER: Iowa and Maine. That's not the Southern District of New York, and I'm certain that they would agree that it's just as inconvenient for them to come here as it is for them to go to Salt Lake City. In fact, the one in Maine is a current employee and maintains a condominium in Salt Lake City for the two weeks a month he spends there. So as far as convenience goes, there's no question that it's substantially more convenient for parties, witnesses.

The lone witness that they claim, that the commission claims, or the SEC claims, is in this district or actually not even in this district -- they just say in the New York area, which I suppose could be anywhere from Philadelphia to Connecticut, but are these two homeland security agents, who sat through some of the proffer interviews and took notes of

some of the witnesses.

Now, mind you, those same homeland security agents and same SEC staffers all went to Salt Lake a couple of times too, but they have no independent knowledge of any of the facts, and there's no guarantee they'll even be called as witnesses. They will be used as impeachment witnesses, in any event, certainly once discovery starts.

It's imperative that you understand that this is not a trading case. This is not a manipulation case. This is a books-and-records case, and that whether or not a SAR is filed will never trigger anything as part of the clearance and settlement system, and certainly institutionally, the commission understands that because they issued guidance last week on shortening the clearance and settlement from D plus three to D plus two, so they have three days to clear and settle a trade. You have 30 days to file a SAR, or a suspicious activity report, but it is unquestionable that the center of gravity, and I use that language because it comes from many cases, the center of gravity in this litigation is in Utah. There are very educated, capable federal district court judges there. I do have to concede that in this district, you're more likely to know the securities laws, but these are very smart judges. These are capable judges.

I won't bother to track through the factors that relate to convenience, but every single one of them applies in

Alpine certainly. There really are no connections to this district, and certainly the homeland security agents can't be a connection because they are witnesses well after the operative facts, and they may not even be witnesses unless somebody changes their story.

THE COURT: Excuse me one minute, counsel. Sorry. Thank you.

MR. BAKER: Sure.

I'll finish by saying that I've been a lawyer for over 25 years. I spent 13 years at the commission, at the SEC. In all those years, I have never seen a case filed in a district where there was so little connection. It's blatant forum shopping, and in their opposition papers, they admit twice -- and we don't have to guess why they filed it here, they admit it twice -- they want to make the biggest media splash they can make. They want to send a message, and they think only the Southern District cases can send a message to the brokerage community on Wall Street, and they're using blatant and brazen forum shopping to be able to do that, and that is improper and should not be allowed to stand. And I'll be interested in knowing how they can justify hauling Utah defendants, witnesses, documents into this court simply because they want to send a message to Wall Street, simply because they want the biggest media splash. That is brazen forum shopping, and that is improper under any rule.

THE COURT: Thank you.

MR. BAKER: I think that about does it, your Honor.

THE COURT: Thank you.

Counsel, I'm going to take a recess in this civil case and hear the criminal case, which is prepared. I'm very sorry that I have to do this, but I need to interrupt you for this criminal case.

(Recess)

THE COURT: Counsel in the SEC case, thank you very much for letting me take that break.

Let me ask you, Mr. Carlyle, is there anything you wish to say in response to the argument presented by Mr. Baker?

MR. CARLYLE: Your Honor, my cocounsel, Mr. Miller, briefed this issue, and I believe he has some issues that he would like to address.

MR. MILLER: Thank you, your Honor.

The first thing I want to address is the connection between our allegations in the district that counsel spoke about, or argued the lack of.

Just to back up, what Alpine does is, at least with respect to this case -- it's a clearing firm -- it clears trades on behalf of its clients, and it can't run its model business without the type of platform that's provided by DTC and NSCC. That platform is what allows clearing brokers like Alpine to work at the high volumes that it does, and many of

those trades that are the subject of this complaint that flow through Alpine and that Alpine directs to DTC are fraudulent.

There are a number of examples in there, and we allege that many of Alpine's customers are violating securities laws by having Alpine send securities transactions to the DTC platform, and it's Alpine's failure to adequately report this suspicious activity which is the entire basis of our complaint.

There was a comment that counsel made about the difficulty or apparent difficulty to tell from the complaint what we were alleging, and I think I'll point to paragraph 8 of the complaint, where we allege that most of the transactions that are the subject of the complaint did flow into DTC in this district, and it's the failure to report those suspicious transactions which are the basis for the alleged violations.

In short, I'll just finish that point by repeating this comment in our briefs, that there is no requirement to file a suspicious activity report without a suspicious transaction. Those suspicious transactions in this case flow predominantly into this district, and that's the reason why venue is proper here under Section 27.

I think that shifts into the Section 1404 argument. I'll start there with just commenting on the purpose for the commission's choice of forum, which is I think the predominant issue before you get into all the others. The purpose that we explained in our brief was that Alpine has repeatedly failed to

report this suspicious activity that it directs to this district. FINRA has told Alpine that its reports are inadequate, and it's continued to do that. The point of filing in this district is to prevent future misconduct by Alpine, and in a way we're asking the Court's preventive injunctive relief in this case.

Now, the secondary purpose that's related to prevent further misconduct by Alpine in this district is the precedential effect that a judgment in this district would have on the industry, and this is definitely not to say that courts in Utah are not as equally capable of applying federal law; it's more of the reality of the fact that this is the nation's financial center and that so many of the brokers and dealers that do business here don't do business in Utah, and when there are litigated disputes, a judgment from this Court just carries more weight in most of those cases.

Finally, I think the only other factor that's really disputed once you get to the reply is the convenience of witnesses. Most of the other factors, I think, were based on another misapprehension of Section 27 of the Exchange Act. We can get into those factors if the Court wants, but there's no problem compelling witnesses to attend trial in this district. There's no problem with this Court requiring anybody in the nation to respond to a document subpoena or a deposition subpoena. And with respect to the convenience of the

witnesses, I think the Court doesn't have to go past the motion, which is that Alpine wholly failed to follow just the basic requirement of submitting a declaration that explains the content of anticipated testimony in a way that allows the Court to weigh the significance of the witnesses and to understand who the primary witnesses are.

Now, there's a supplemental declaration that was attached to the reply that I think the Court can disregard, but even if we want to look at it, it doesn't cure any of the defects. If you look through, again, it's a laundry list of 20 witnesses in a books-and-records case, many of whom have, I think, copied and pasted the same description of testimony, so at best it's cumulative. At worst, it's irrelevant, and there's just no explanation of who Alpine thinks the primary witnesses are, and there's no indication from the complaint or the briefs why Alpine would need to call 20 employees to testify about a books-and-records case.

I think the last point I want to address that counsel brought up was the argument about the homeland security agents, and it was actually the supplemental declaration, the last paragraph, that made a point that Alpine witnesses, current Alpine employees disagree with the SEC's summary of what they anticipate their testimony to be. The declaration, if it does anything, elevates the importance of these homeland security agents to be there to testify about what the employees said the

first time they were interviewed.

Unless the Court has questions, I think that the jurisdiction argument is clearly something that should be summarily rejected. The fact that it was the thousands of suspicious transactions that were sent to this district that are the core basis the complaint gets us past 1406, and the commission's choice of forum is not outweighed by any of the other factors that are relevant under 1404.

THE COURT: Thank you.

I'm prepared to rule on the motion.

There were essentially three grounds raised. One was the personal jurisdiction argument. That's been largely abandoned. The original personal jurisdiction argument was brought under New York long-arm statute, which is not the controlling law with respect to that issue. There is a remnant of that personal jurisdiction argument which has to do with the due process clause, which is, of course, always relevant, but the test there is as broad as everyone realizes.

Here, due process is not offended. The defendant's entire business activity was directed to New York. It purposefully avails itself every day it is in business of the privilege of conducting activities in the Southern District of New York, and this litigation is directly related to those activities.

The essence of this dispute is whether SARs should

have been filed in connection with transactions cleared through the Southern District of New York financial institutions, so there's no problem under the due process clause with pursuing this litigation by an exercise of personal jurisdiction, which the federal securities laws allow throughout the geographic boundaries of the United States.

The second argument is one connected with, as counsel describe it, venue. It stems from Section 27, and that provision of the law allows a suit or action to enforce liability, under the relevant securities laws, to be brought in any district wherein the defendant transacts business, and there's no dispute that it is a core part of the defendant's business -- that is, Alpine Securities Corporation -- to transact business in the Southern District of New York.

I think that brings us, then, to the 1404 argument, and as Mr. Baker acknowledged, that's the heart of the dispute here. Counsel are familiar with opinions I've written in this area. There are many, many opinions under 1404 that I and the circuits and other district judges have issued, but I'll just refer to my description of the law in the Poseidon case, 2016 WL 3017395, just for convenience. Each side has addressed that and is familiar with that decision.

Of course, the first issue is whether or not the plaintiff's choice of forum should be granted deference. Normally it is granted deference, but under Second Circuit law,

the degree of deference can vary based on the circumstances in the individual case. Here, it is appropriate to grant the SEC's choice of forum -- that is, the Southern District of New York -- deference. It is not chosen for an improper purpose. As everyone acknowledges, New York is the financial center of this country, and securities litigation is regularly conducted in this district. It is not improper to seek to pursue this litigation that is so central to the defendant's business in the Southern District of New York.

Let's turn, then, to the private and public interests that must be weighed under Section 1404.

Again, the defendant bears the burden here of showing that these factors tilt in its favor. The private factors include the relative ease of access to sources of proof; the availability of compulsory process for the attendance of any unwilling witness; the cost of obtaining attendance of willing witness; the possibility of viewing a premises not at issue here, and all other practical problems that may be associated with making a trial easy, expeditious and inexpensive.

Then one would turn to the public factors, including congestion in the court; the interests of forums in having localized controversies decided at home; the interest in not imposing jury duty on people with no interest in the litigation and any unfamiliarity with the law that applies that would be greater in one district versus the other.

The defendant has not shown that these factors tilt in its favor and certainly not sufficiently to overcome the deference to be shown the plaintiff's choice of forum.

This is primarily a document case, and therefore the records are equally available to both parties in whatever district this case would be prosecuted or pursued. There's no dispute that process would require the attendance of witnesses in the Southern District of New York in this action, and there will be some burden with respect to witnesses having to travel to this district from Utah and other locations, including Maine and Iowa, but not a sufficient showing of how many such witnesses there are that are realistically needed for a trial or hearing in this district. It was the defendant's burden to make that showing, and it has failed to do so.

In terms of public interest factors, there is no problem with court congestion here. I'm able to speedily address this case on my docket. Certainly there's no burden on a New York jury of addressing issues related to the enforcement of the securities laws, which are at the heart of much of the financial lifeblood of this district and its businesses and people, and certainly no inability for this Court to understand the relevant law, though that doesn't give me any advantage over the District of Utah. We're all federal judges. We can all apply and understand federal law. I don't have an advantage here, but I don't have a disadvantage there either.

Therefore, the application to transfer is denied.

Let's turn to the initial conference issues. I have the Rule 26(f) report. It indicates that the parties are going to make their initial disclosures in this case in a week, September 22. That's just fine.

The SEC has provided the defendant with a protective order, and I know the defendant has been reviewing that, so why don't I also expect a protective order to be submitted to me for signature next Friday, the 22nd. If there's any disagreement about a particular provision, just give one order with the disputed language in bold so I can read that disputed language in context, but I expect to be able to review that and approve it, or not, next Friday.

Then let's talk about schedule generally for fact discovery. I'm going to assume that in early October, initial interrogatories and document demands will be served and they'll be responded to in early November.

How many depositions does the SEC wish to take?

MR. CARLYLE: Your Honor, we had originally discussed a limit of 10 deposition, but that was before we saw, in this briefing here, that the defendants intend to rely on up to, I think, 20 witnesses that they've listed. As you noted, we have yet to exchange 26(a)(1) disclosures, but if indeed it looks like the defendant intends to rely on the 20 witnesses, we may well seek to take that many depositions.

THE COURT: OK. Let's approach this anew. You've described this to me as a books-and-records case, so you're going to need a 30(b)(6). Who do you need besides the 30(b)(6)? Was there a compliance officer?

MR. CARLYLE: Your Honor, yes. I must say I think my cocounsel is more familiar with the folks who are on that list right now.

THE COURT: Don't look at the defendant's list. That was a list prepared for this motion. I'm talking about who you think you want.

MR. CARLYLE: Yes, your Honor. We have a list. It's, I believe, five witnesses. I think it's two different chief compliance officers.

THE COURT: So a 30(b)(6), two compliance officers, and who else?

MR. CARLYLE: A general counsel.

THE COURT: And is that someone, if there's an advice-of-counsel defense, or general counsel you think is going to be able to give deposition testimony?

MR. CARLYLE: It's someone that we anticipate being able to give deposition testimony as a fact witness based on involvement in the process of providing and submitting the SARs reports.

THE COURT: OK.

MR. CARLYLE: OK?

THE COURT: That's four.

MR. CARLYLE: Yes.

THE COURT: Anyone else?

MR. CARLYLE: I apologize. It's the chief compliance officer, the general counsel, an AML officer. I'm sorry. There are three people that are described as AML officers, who are within the compliance function but are not actually the chief compliance officer.

THE COURT: When you say AML, what does that mean?

MR. CARLYLE: I apologize. It's antimoney laundering, and it's the function under which the SAR filings fall.

THE COURT: OK. Let's assume you only need one of those.

MR. CARLYLE: OK.

THE COURT: I mean, this is a business practice case, right?

MR. CARLYLE: Understood, your Honor, but those folks worked at Alpine during different points in time during the relevant period, so they do have different --

THE COURT: Oh.

MR. CARLYLE: It's not three people who had overlapping responsibilities.

THE COURT: OK. To cover each of the periods at issue, you need three people.

MR. CARLYLE: Yes, your Honor.

THE COURT: OK. Anyone else?

MR. CARLYLE: That's our list right now, save for the homeland security agents that have been referenced before that may or may not be needed.

THE COURT: You're not planning to take their depositions.

MR. CARLYLE: No. That's correct, your Honor. Sorry.

THE COURT: OK. That's six depositions. Great.

Mr. Baker, how many do you need?

MR. LABENTA: Your Honor, Aaron Lebenta, if I might address this.

The problem we're having right now is we don't actually know which SARs are at issue. They haven't identified them in the complaint. The reason we identified so many individuals within our declaration and supplemental declaration is we just identified those folks responsible for the BSA compliance program during the relevant time period.

We will need at least to take the depositions of at least the former employees of Alpine, which I think there's six as well, but there may be more. We're going to have to have expert depositions.

THE COURT: I'm just dealing with fact witnesses.

MR. LABENTA: Just fact witnesses.

THE COURT: Fact witness.

MR. LABENTA: At this point in time, without knowing

which SARs are at issue, your Honor, we would like ten.

THE COURT: OK.

MR. LABENTA: Because I don't know which witnesses we need.

THE COURT: Let's step back here. It's a program that you ran.

MR. LABENTA: Yes.

THE COURT: You had procedures, you had policies.

MR. LABENTA: Yes.

THE COURT: You've heard who the SEC wants.

MR. LABENTA: Yes.

THE COURT: There will be a 30(b)(6).

MR. LABENTA: Right.

THE COURT: Two compliance officers, because they had different periods of time in which they were in charge; general counsel; and three AML personnel, again because there are three different periods.

MR. LABENTA: Right.

THE COURT: OK. Who do you want besides that?

MR. LABENTA: We're going to want one more. Any former employee, including Ms. Farmer.

THE COURT: I don't know what her position is.

MR. LABENTA: She was an AML officer, but she appears to be the key witness that they're relying upon. She's the individual who is now in Iowa.

THE COURT: So not one of the three?

MR. LABENTA: I don't know.

Go ahead.

MR. CARLYLE: To clarify, she was one of the witnesses that I described as the chief compliance officer. I understand that wasn't her title for a period of time.

MR. LABENTA: OK.

THE COURT: She's already being deposed.

MR. LABENTA: That's fine. I guess if I had names -- it's tough, because I don't know who's qualified.

THE COURT: You have the titles.

MR. LABENTA: There's a number of them, your Honor. That's the only issue.

THE COURT: OK, counsel. Let's deal with it this way. This is for planning purposes. I'm not sure the defendant is going to want to take any depositions, but it may. I'm not going to let you take more than six.

MR. LABENTA: OK.

THE COURT: Without coming to me and making a specific showing as to why you need more than six.

MR. LABENTA: OK.

THE COURT: All in all, we're making a plan here that there will be twelve depositions in this case, fact depositions. I'm not sure that we're going to have any more than six. It may not be in the defendant's interest to take

any depositions; I have no idea.

MR. LABENTA: Yes.

THE COURT: We're now in a position to make a plan.

The initial interrogatories and document demands are served, roughly, under our plan early in October and responded to in early November. You then spend the rest of November looking at the documents that have been produced.

You can start depositions in December. You have twelve depositions in all, so fact discovery will end March 30. You folks want expert discovery, so April 20 will be the expert report by the party bearing the burden. May 11 will be rebuttal expert reports, and June 1, expert discovery will close.

I saw here that there was a desire for summary judgment practice. If there is going to be a summary judgment motion, it will be filed June 13. Opposition will be August 3. Reply will be August 17.

Is there a demand for a jury, or is this a nonjury case?

MR. CARLYLE: There is, your Honor.

THE COURT: There is what?

MR. CARLYLE: I'm sorry. There is a demand for a jury.

THE COURT: OK. If there is no summary judgment motion, then the pretrial order in this jury case will be due

July 13.

OK. Now, let's talk about settlement. We have a mediation program in this district. We also have an opportunity to send you to a magistrate judge for settlement discussions. Your magistrate judge is Judge Ellis.

Let's talk about a schedule for settlement discussions. I'm going to suggest that you pursue settlement discussions probably in February. That would give you a chance to have taken a couple of depositions, to have a really good handle on the case and yet save you some of the expense of expert discovery. Does February for settlement discussions sound about right?

MR. CARLYLE: For the SEC, yes, your Honor.

THE COURT: Mr. Labenta.

MR. LABENTA: No problem. Yes, that would be fine.

THE COURT: February for settlement discussions. And do you want to go before a mediator or Magistrate Judge Ellis?

MR. CARLYLE: The SEC would be happy with either, prefer the magistrate judge.

THE COURT: Mr. Baker, Mr. Labenta.

MR. LABENTA: That would be fine with us as well, the magistrate judge, but either would be fine.

THE COURT: If either would be fine, I'm going to send you to a mediator. I'll get out a scheduling order with these critical dates, but fact discovery will conclude March 30;

expert discovery June 1; any summary judgment motion, or in its absence, a pretrial order in this jury case will be due July 13 next year.

Let's talk about discovery.

Yes, counsel.

MR. LABENTA: Your Honor, just from the defendant's position, they've alleged over 5,000 individual SARs violations. They've been investigating this case for literally years. We don't even know at this stage what violations they're talking about, which SARs they actually claim are in violation. Respectfully, your Honor, March 30 seems kind of tight for us to conduct this analysis of thousands when they have had literally years to do their front end. We're in a defensive position. We don't know from their complaint which ones they claim or why they claim they're inadequate.

In order to get depositions done in December, I'm not quite sure how we're going to get the very base, foundational knowledge we need to have in order to conduct those depositions in such a tight schedule. I do appreciate the Court moving it forward, but I'm concerned about the schedule.

THE COURT: This is part of the Rule 26(f) conference among the parties. Have you discussed with each other how you're going to get those transactions identified?

Not yet? Why don't we take a break. Why don't we take a break. You're here. It makes sense for everybody to

try to get on the same page and have those discussions, complete your 26(f) conference. Try to make as much progress as you can, and my law clerk will let you know how to get in touch with my chambers, and I'll resume this conference when you're ready to discuss these issues in more detail with me.

Let me just complete this portion of the conference by telling you how we're going to conduct discovery. If you have a discovery problem, you have to meet and confer, try to resolve it in good faith. If you have any problem after that meet-and-confer process that remains unresolved, write me a letter no longer than two pages. I'll get you on the phone, hear you out, and give you a ruling.

If you want discovery, you have to be diligent and pursue it. Move forward, if March comes and you haven't taken any deposition, it's too late.

Good. My law clerk will tell you how to get in touch with me. You can use my jury room for your consultations. Good luck.

(Recess)

THE COURT: You may be seated.

Mr. Baker, have you had an opportunity to confer with the SEC?

MR. BAKER: Yes, we have, your Honor, and I think I'll have Mr. Labenta speak to that.

MR. LABENTA: Your Honor, it's my understanding -- you

guys will correct me if I've overstated something -- that they will provide us with the documents as soon as we have the protective order entered, and they're going to provide a schedule. Just having the documents isn't all that helpful. We need to know what they claim is wrong with them. They said they could have a schedule prepared of what they claim is wrong with each SAR by the end of October, which means we can't really start what we're doing until the end of October, which, given that, I would like if we could to push everything out maybe 30 days, just given that we're not going to be able to start. It is what it is, that it can't be provided until then.

THE COURT: Mr. Carlyle.

MR. CARLYLE: Your Honor, Mr. Miller will address this line.

MR. MILLER: That's the gist of the agreement we just got to, and the SEC's going to put together that schedule regardless of the timeline, so we'll get it to the other side as soon as we can, but we have no strong objection to an extra 30 days, and we also have no problem with the current schedule the Court laid out, so we'd defer to the Court.

THE COURT: Mr. Miller, you don't have such a schedule?

MR. MILLER: What we have is a, I'll call it a big step towards a schedule, and so there are some mechanical things that have to happen in sequence, and one of them is as

simple as making sure that the schedule is citing to the correct pages and those pages get labeled once they're produced. It's more of a big, I guess I'll just call it a housekeeping project.

Like I said, if it gets done mid-October or earlier than that, we'll send it over the day it's ready. I'd say we've been working on it, and definitely we're not starting from scratch, but it's not complete in a product that we could call a response to a discovery request yet.

THE COURT: How about two weeks?

MR. MILLER: Two weeks from?

THE COURT: Today.

MR. MILLER: I think that we'll definitely give it a shot, and perhaps if we get close to two weeks and it looks like there's something unforeseen that came up, we can address it with defendant first. And if then if there's still a problem, we can address the Court, but we'll definitely make a shot for two weeks. And assuming the protective order is in by then, I think we'll be OK on that end.

THE COURT: Good. Terrific. I didn't put down an actual date for the protective order on my notes. I think we were just talking about it informally.

Who is producing the draft?

MR. MILLER: We're working together. The SEC will take the lead in actually submitting it. It should be a joint

proposal, and I think the Court did mention that we should be filing it by no later than the 22nd, when we do our initial disclosures. Again, if it's something we get to on Monday or Tuesday, the commission will submit it as soon as it's ready, but no later than next week.

THE COURT: OK, but in any event, we talked about a schedule which would have it signed far in advance, at least a week in advance, of your production of the chart.

MR. LABENTA: Yes.

THE COURT: Good.

Good luck, counsel. Thank you.

(Adjourned)